

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Rulemaking to Define)	RM No. 10522
“Captured” and “New” Subscriber)	
Lines for Purposes of Receiving)	
Universal Service Support Pursuant)	
To 47 C.F.R. § 54.307 et seq.)	

Reply Comments of Montana Independent Telecommunications Systems (MITS)

Montana Independent Telecommunications Systems (MITS) files the following reply comments with respect to the National Telephone Cooperatives Association’s (NTCA’s) Petition for Expedited Rulemaking. MITS represents seven independent rural telephone companies operating in Montana, North Dakota, Wyoming and Nevada.

NTCA is to be commended for bringing forward for national debate the issue of defining “new” and “captured” for the purposes of federal universal service support. MITS and the companies it represents wholeheartedly support the spirit, if not entirely the letter, of NTCA’s efforts.

The beauty of NTCA’s proposed solution is that it defines the aforementioned terms in a manner calculated to confine support to those companies across the United States that are truly providing universal service as it should be defined. The FCC’s current definition of universal service is pathetically basic. It allows carriers providing third-rate wireless service to rural subscribers to receive support at the same level as first-rate incumbents.

NTCA's petition gives voice to the frustration felt by small, rural providers who have labored for decades to serve as carriers of last resort in areas no one else would serve. In most instances, these providers put the service quality of the local Bell company to shame. These rural providers can but watch helplessly as the FCC unravels forty to fifty years of hard work by providing equal support to deserving small rural incumbents and undeserving wireless competitors alike. In short, what the FCC has done with respect to putting competitive wireless ETCs, whose service standards are in many if not most cases laughably poor, on a par with small, rural incumbent providers for the purposes of universal service support is a national disgrace.

That said, we cannot agree entirely with NTCA's proposed solution. In the very few cases where a small, rural incumbent is not providing decent service and a competitive ETC is willing to provide a high quality of service (far, far higher of course than the FCC's current basic definition), we are hard pressed to support giving support to the incumbent simply because they were the first to serve the subscriber. However, such cases are rare, and NTCA's proposed rules are a simple way to quickly do the most good on an interim basis. More refined rules that take into account the rare instances where competitive ETCs provide service superior to the incumbent can be captured by permanent rules at a later date.

Of more significance is the issue of how incumbents may come to lose a "captured subscriber line." As we understand the proposed definition, a subscriber who was once served by a small rural incumbent but who has moved to a competitive wireless ETC and dropped the incumbent's service would be said to have been "captured" by the competitive wireless ETC. When that subscriber realizes that the only benefit of the

wireless ETC is mobility and resubscribes to the incumbent to get the rest of the telecommunications services he desires, he will only be “captured” by the incumbent if he also drops the wireless ETC’s service.

If the subscriber retains the wireless service to keep its mobility, the incumbent will be deprived of universal service funding even though the incumbent is the only true source of “universal service” as that term is properly defined.¹ Further, the wireless ETC will continue to receive universal service when the subscriber wants only the mobility feature of its communications offerings. MITS envisions that such consumer behavior will be commonplace. Subscribers who rediscover the value of equal access, unlimited local usage, Internet access at decent speeds, customer service from real people who live in the area, not having every other call dropped due to poor coverage and congestion problems, and so on will come back to their incumbent providers. However, they will retain their wireless service, even when that service is at best third-rate, to retain the mobility. They should be allowed to do so, but the small rural provider should not be punished by the subscriber’s momentary dalliance with an inferior provider as his primary source of telecommunications services. In such circumstances, the rules should allow for support to flow to the incumbent and not to the competitive wireless ETC.

Under its current rules, the FCC is causing the size of the universal service fund to expand in an unsustainable manner by allowing funds to be doled out to undeserving wireless ETCs that in many if not most cases provide abominable service when compared to the small, rural incumbent. Further, the FCC is creating a “race to the bottom” in terms of service quality by forcing honorable and decent small, rural providers to

compete with such wireless ETCs where such competitors unfairly receive a universal service fund windfall. Abominable service is relatively inexpensive to provide, but these wireless competitors are receiving support based on the much higher costs of providing universal service as it is properly defined (decidedly not as the FCC has defined it). This allows them to significantly undercut the incumbent's prices. The incumbent's only recourse is to lower the quality of its service to reduce the windfall to the competitor and give itself a chance to compete on price. Most small, rural providers would rather fold their tent than deny their subscribers decent service. Thus, those who will ultimately be harmed by the FCC's policies will be the rural subscribers, as decent and honorable incumbent providers are put out of business and subscribers are left with only third-rate competitors. Our challenge to the FCC can be summed up in four words: do the right thing.

RESPECTFULLY SUBMITTED this 7th day of October, 2002.

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¹ For a proper definition of universal service see the initial and reply comments of the Montana Universal Service Task Force (MUST) to the Federal-State Joint Board dated November 5, 2002 in CC Docket No. 96-45.